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PENAL COMMISSIONERS OF MARYLAND

The prison authorities, under proper supervision, should be authorized to extend prompt aid in case of harsh deprivation, and provision should be made for a small daily wage credit to industrious prisoners, who might thus, through their own efforts, maintain, in some degree, the relation of provider to those who have a natural right to look to them.

The segregation of defective delinquents (many of whom might be more properly termed delinquent defectives) is of grave importance. If the county prisons should be placed under State control, and the Prison Commission should be granted the power of transferring prisoners, the defectives could be placed together in the prison most suitable to their needs and capacity. If this means is not resorted to we know of no way out of the difficulty except by the establishment of another institution for their care, which method we should not propose except as a last resort.

The location of the State Prison and its physical equipment are not suitable, but we hesitate at this time to advise the purchase of land and the construction of a new congregate prison.

With the management of the county prisons and the State Farm, and the power of transfer above mentioned, the State would be in control of 26 prisons, which would manifestly be a sufficient number of institutions of that character for the use of Massachusetts. Many of them are well built, and some of them have quite an area of tillable land in connection. Some might with advantage be removed, by the sale of the present sites and the purchase of more land, to a new location, particularly those institutions which are in the settled portions of cities, as outdoor work, especially on the land, is peculiarly beneficial to many prisoners.

An extension of the hospital section of the Prison Camp and Hospital at West Rutland seems clearly to be desired, and we are submitting plans in this connection.

In case the county prisons are taken over by the State, we recommend a standing appropriation of \$15,000 per annum, to be used in the purchase of land contiguous to the various prisons, as necessity demands and opportunity offers.

We recommend the amendment of chapter 829, Acts of 1913, so as to permit the State agent, under authority of the commission, to dispense the funds of private charities to discharged prisoners during usual business hours.

We likewise advise the enactment of an act making it unlawful for any official connected with the prison service, or in a position of superiority, to urge upon any other official connected with the prison service the appointment of any particular person or persons to any position of emolument in any prison of the Commonwealth.

R. H. G.

Report of the Penal Commission of Maryland.—To His Excellency Phillips Lee Goldsborough, Governor of Maryland.

The Commission on Revision of Penal Laws and Prison Reforms, recently appointed by your Excellency, begs respectfully to report as follows:

It has prepared, and herewith transmits, drafts of six proposed Bills and of one Amendment to the Constitution of Maryland. Briefly summarized, they are as follows:

1st: A Bill being an Act to create an unpaid advisory board, to be known

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as the "Advisory Board of Parole," for the purpose of rendering more effective and efficient the exercise by the Governor of his constitutional power of pardon and reprieve. Under this Bill, all of the essential features of the Indeterminate Sentence system may be successfully worked out. Your Commission felt that, under the provisions of the Maryland Constitution conferring upon the Governor exclusive right of pardon and reprieve and sharply differentiating the executive, legislative and judicial functions, and forbidding the exercise by any one department of the State Government of any power belonging to any of the other departments, there was some doubt as to whether or not the parole power could constitutionally be conferred upon a Board created by act of the Legislature. It believed that the undoubted power of the Governor to issue conditional pardons, upon such terms as to him seem proper, could readily be availed of for the exercise of the parole function, provided that the Governor be given the machinery with which to advise himself as to the cases suited for parole, and should further be provided with a reasonable number of probation officers to follow up, and take care of, the cases of prisoners actually paroled. With that end in view, the proposed Bill provides for the appointment of an unpaid Advisory Board of Parole, to consist of three persons appointed by the Governor, with the advice and consent of the Senate, without regard to political affiliation. This Board is given authority to employ a Secretary and four probation officers upon reasonable salaries and to appoint as many unpaid probation officers as it might deem necessary. It is the duty of this Board, under its appropriate rules, to examine into the cases of all persons confined in the various Penal Institutions of the State, and to report to the Governor upon such cases as may seem suitable to it for conditional pardons, and to make such recommendation thereon as to it shall seem proper. Upon receipt of such recommendation, the Governor may, if to him seems meet, exercise his constitutional power to issue conditional pardons on the terms recommended by the Board, or on such terms as he may prescribe. It is believed that by this method most of the advantages claimed for the Indeterminate Sentence will be assured, and at the same time the constitutional grounds, upon which the Indeterminate Sentence laws have been attacked, are entirely avoided.

This Bill carries an annual appropriation of only ten thousand dollars.

2nd. An Amendment to Article III of the Constitution of the State, in the form of a new section, to be known as Section 60 thereof, conferring power upon the General Assembly to provide by suitable general enactment for the suspension of sentences by the Court, for any form of Indeterminate Sentences, and for the releasing upon parole of convicts, as the Legislature may hereafter approve. The purpose of submitting this Amendment is to provide a more simple and direct machinery for any form of Indeterminate Sentence which the Legislature may approve

3rd: A Bill to establish a State Board of Control to assume charge and management of the State Penitentiary and the Maryland House of Correction and to authorize, and provide not more than one hundred thousand dollars for, the erection of a prison for women, likewise to be under the control of the said Board of Control. The erection of a woman's prison will render available for male prisoners the present wing of the Maryland Penitentiary, with a capacity about one hundred and thirty-five modern cells, now devoted exclusively

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to women, but occupied by only about thirty-five inmates, resulting in a loss of about one hundred cells, which if not made available for male prisoners will at this time require an appropriation of about two hundred thousand dollars to build an addition to the Maryland Penitentiary. The same situation, to a greater or less extent, exists at the Maryland House of Correction. Therefore, your Commission believes that the present expenditure of about one hundred thousand dollars for a woman's prison to which will be removed the women convicts from both institutions, will result in an actual saving to the State of over one hundred thousand dollars. For purely technical and legal reasons, this woman's prison is to be made a branch of the House of Correction, and so designated. This Board of Control is to consist of three citizens of Maryland appointed by the Governor, without regard to political affiliation, with the advice and consent of the Senate. Their terms of office are to be for six years, with the provision for the termination of one term only at the end of each two-year period. Each member is to be paid a salary of three thousand dollars per year. Your Commission would have preferred to have provided for larger salaries than these, but did not feel justified in doing so in view of the express constitutional provision to the contrary, and of the recent judicial enforcement of such constitutional provision. It is confidently hoped that, even at this relatively low salary, the Governor may be successful in inducing the proper sort of men to accept these responsible positions.

The State Board of Prison Control shall employ, and prescribe the salaries of, a secretary, wardens, physicians and other employees, and shall succeed to all the rights, powers, duties, etc., of the Directors of the Maryland Penitentiary and the Board of Managers of the Maryland House of Correction. It shall have full power and control over the Penitentiary, House of Correction and House of Correction, Woman's Branch. It shall succeed to the title to, and ownership of, all of the property of all of these institutions. It shall be given power and authority to establish and maintain a system of labor for prisoners to supersede the present system of contract labor. It is given plenary powers with respect to the nature and character of such system of labor, but is directed to provide, wherever expedient, such form of labor as will offer an opportunity to prisoners to earn a surplus over the cost of their maintenance to the State.

It is further provided that all sentence of imprisonment hereafter imposed, exceeding six months, in the case of males, shall be to the Maryland House of Correction or the Maryland Penitentiary. The county and city jails are to be reserved for the cases of those sentenced for less than six months. After the establishment of the House of Correction, woman's branch, all women sentenced for a greater term than one month shall be sent to that branch, and only those sentenced for a less term than one month shall be sent to the county and city jails. Provision is made for the transfer, under proper circumstances, from the House of Correction to the penitentiary and *vice versa*, of any person hereafter committed to one or the other of the said institutions. The superintendent of the woman's branch is required to be a woman.

For the maintenance of the three institutions the sum of seventy-five thousand dollars annually, or so much thereof as may be necessary, is appropriated. This amount was agreed upon after careful consideration of the expense of the management of the penitentiary and the house of correction, and of the proper cost to maintain the woman's branch in the future, and, of course, takes into

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consideration the revenue expected to be derived from the proper employment of the prisoners. At the present time there is a deficit at the Maryland House of Correction of about thirty-six thousand dollars.

To your commission was also referred the work of revising the criminal laws of Maryland. The limited time at its disposal had necessarily to be devoted almost exclusively to the consideration of the many problems involved in the preparation of the State Board of Control Bill and the Advisory Board of Parole Bill. Moreover, we were not unmindful of the fact that Chapter 325 of the Acts of 1908 provided for the appointment of a commission to "revise, make harmonious and rearrange systematically the criminal statutes now in force in Maryland." We have had the work of that commission before us. We recommend whatever appropriation may be necessary to complete the work of that commission and to publish its report, but in view of the fact that Mr. George P. Bagby, of the Baltimore Bar, expects to publish in the summer of 1914 an Annotated Codification of Article 27 of the Code of Public General Laws, including the criminal laws passed at the pending session, we have not thought it wise or expedient at this late date to undertake any comprehensive measures looking to the general revision of the penal laws.

Your commission would also recommend the operation of a penal farm in connection with either the Maryland Penitentiary or the House of Correction. Owing to the fact that the bills that we have prepared already call for a large outlay of money, we have not embodied this recommendation in the bills prepared by us. We strongly favor, however, the establishment of such a farm, and would be most happy to see this recommendation adopted by the general assembly. The farm, if established, ought, of course, to be under the control of the Board of Prison Control. In connection with this recommendation, we desire to call attention to the fact that the state owns at the House of Correction some three hundred acres of land, which might well be employed for experimental purposes, at least, with a view to the future establishment of a large penal farm.

Your commission was likewise anxious to recommend the making of suitable provision for the care of the criminal insane, of whom there are probably forty or fifty in the state, and for whose care, at the present time, no adequate provision has been made. The same question of the necessary financial outlay involved deters your commission from making actual provision for this much-needed reform.

Your commission concurs heartily in the recommendation contained in the annual report of the Maryland Penitentiary for 1913 (page 7), for the establishment of a tuberculosis hospital for prisoners. It respectfully suggests to the Board of Prison Control the establishment of such a hospital upon the lands of the House of Correction.

Four additional bills have been prepared by your commission, as follows:

4th: A bill providing for the indictment and trial of persons in the counties during terms of court where there is now no grand jury or petit jury. The object of this bill is to prevent the injustice of detaining persons unreasonable lengths of time in jail awaiting indictment and trial.

5th: A bill providing that no judgment shall be set aside or reversed or new trial granted in any criminal case, unless the court, after an examin-

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ation of the entire case, shall find affirmatively that the error complained of has resulted in a miscarriage of justice.

6th: A bill providing for the issue of a summons or notice in criminal cases of which a justice of the peace, police justice, or other similar official has jurisdiction, in lieu of a formal warrant, in the discretion of such justice of the peace, etc.

These three bills have been approved by your commission.

7th: A bill permitting the amendment of indictments in criminal cases, in the discretion of the court. While your commission approves the principle of this bill, several of its members are not completely satisfied as to its constitutionality.

Mr. F. Neale Parke desires that it should be here stated that he does not approve of the principle of the indeterminate sentence or of the purchase of a penal farm.

Respectfully submitted on behalf of the commission.

February 16th, 1914.

ELI FRANK,
Chairman.

From E. O. DUNNE.
Baltimore.

The Need of a Federal Office of Prisons.—The following is extracted from an address recently made by Dr. E. Stagg Whitin, until recently chairman of the National Committee on Prison Labor: [Ed.]

"A case now pending before the Supreme Court of Rhode Island is of fundamental significance from the point of view of the rights of the convict, and it should pave the way for federal action. Rhode Island in the early forties, without exception, prohibited slavery in its Constitution, making no mention of the slave status as a punishment for crime. A former convict, Anderson by name, sues the business interests to whom his services were let by the state for wage, in payment for his services. It is contended that while in prison he was a ward of the state under instruction; that the business interests profited by his services, and as by the Constitution of the state he could not be in slavery, he asks the reward for his toil for the benefit of an aged mother and others dependent upon him.

"Slavery with its exploitation has seen the only alternative; for the deprivation of liberty there has grown up a new concept of control whether it be over the child, the feeble-minded, the insane or the delinquent: a control for the benefit of the individual controlled—a control for his education, for his cure, for the insuring of his happiness. Modern education with its psychological study of the power of interest has pointed a new opportunity; the brutality of the old school system, the torture of the insane must give place. The ward of the state, whether child, insane or criminal should stand in a new relation. The parent-right, whether exercised by a natural parent or by the state, may limit the boundaries of the ward's activities for the ward's own good and the good of society in which afterward he is to take his place. Neither the parent nor the state any longer has the right to exploit the child or the convict or the insane to their detriment. * * * *

"When government fails, voluntary associations come into existence to do in part the work left undone by government. The National Committee on Prison Labor has had as its task for several years now the standardization of